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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,922	11/19/2003	David Rives	SEALED 3.0-042	6414

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

EXAMINER

LONEY, DONALD J

ART UNIT PAPER NUMBER

1772

DATE MAILED: 08/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/716,922

Applicant(s)

RIVES ET AL.

Examiner

Donald Loney

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1. Claims 1,2 and 4-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berner (3506533) in view of Lindsay (4825089) or Knoerzer (5525421).

Berner discloses a foam web 23 containing ribs (the section between grooves 27) wherein a metal foil layer 24 is attached thereto. Channels are formed by grooves 27 being covered with foil layer 24. An additional metal foil layer 25 is present on the other side of the foam per instant claims 18, 20 and 21. Refer to figure 10 along with column 1, lines 52-60 and column 4, lines 15-48. Berner does fail to specifically disclose an additional polymer layer between the metal and foam web. Berner does disclose the metal layer can be sucurred to the foam layer using an adhesive (column 1, lines 52-60 and column 4, lines 39-42).

Lindsay teaches to include a metallized plastic film to a structured foam layer in order to influence heat transfer from the hollow spaces (i.e. channels) into the material of the floor top. Refer to layers 122, 124 and 126 in Lindsay along with column 6, lines 45-57. Knoerzer discloses that polyethylene is a typical adhesive used on a metallized film in order to adhere it to something else (see column 4, lines 1-4).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to Berner to attach a plastic/metal foil layer to the ribbed foam layer, as is taught by the Lindsay in order to influence heat transfer from the hollow spaces (i.e. channels) into the material of the floor top motivated by the fact Lindsay specifically discloses the foil layer be metal or a combined metal/plastic foil/metal layer. Regarding claims 2, 4-8 and 12, the metal is discloses as aluminum and the polymer as polyethylene (see Berner column 5, lines 33-37, Lindsay column 5, lines 64-68 and Knoerzer column 4, lines 1-6). The specific thickness of the film, density of the foam, size of the ribs and additives in claims 9-11, 13-17, 22 and 23 are deemed

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obvious to one of ordinary skill in the art motivated by the fact one would select such as desired for a particular application. The additives per claims 22 and 23 are a known means for an intended function. It would also be obvious to one of ordinary skill in the art to use polyethylene as the adhesive disclosed Berner, which would then form a polymer layer between the metal and foam web, motivated by the fact Knoerzer discloses that polyethylene is a known adhesive used to laminate metal films to things and Berner discloses that the metal film can be applied to the foam using adhesives.

Response to Arguments

2. Applicant's arguments filed May 19 2006 have been fully considered but they are not persuasive. The applicant argues that the combination of Berner and Lindsay does not produce a structure wherein a polymer is disposed between the metal and foam web. However, when the film as shown in figure 10 of Lindsay, which comprises a metal polymer/metal layer is used, there would be a polymer layer 122 between the metal layer 124 and the foam web. The applicant has not excluded the other metal layer 126 from the instant claims due to the use of the open claim language drawn to "comprising" in the preamble.

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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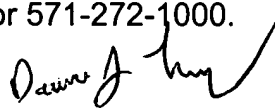
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Loney whose telephone number is (571) 272-1493. The examiner can normally be reached on Mon, Tues, Thurs and Fri. 8AM-4PM, flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Donald Loney
Primary Examiner
Art Unit 1772

DJL:D.Loney
07/28/06